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In re Reissue Application of
[Walsh,] Blaszczec, Soriano, and Wood
Application No. 09/313,335
Filed: May 20, 1999
For: Soft Count Tracking System
U.S. Patent No. 5,630,755

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: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
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This is in response to the petition under 37 CFR 1.47(a), filed September 30, 1999.

The petition is dismissed.

All of the inventors named in the above-identified application have signed the declaration. See 37 CFR 1.41(a)(1). Accordingly, there is no need for a petition to accept the application without the signature of Mr. Walsh. A petition under 37 CFR 1.48(a) to add Mr. Walsh is required before the petition under 37 CFR 1.47(a) can be considered.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63. (If a declaration is signed by the currently non-signing inventor, please make sure that the declaration lists all inventors and does not suggest that the inventor is a sole inventor, such a declaration will neither comply with 37 CFR 1.63 nor evidence that the inventor is willing to join in the filing of this application.) Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The declaration in the above-identified application does not name Mr. Walsh as an inventor and instead appears to state that "We, Miroslaw Blaszczec, William Wood, and Salvatore Soriano...are the original and the first joint inventors." Since the first-filed executed declaration controls the inventorship in an application (37 CFR 1.41(a)(1)), a petition under 37 CFR 1.48(a) is required to add Mr. Walsh as a joint inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. Applicant lacks item (2) set forth above.

As to item (2), if a declaration is filed with the petition under 37 CFR 1.48 which names Mr. Walsh and provides his residence, mailing address and citizenship, and is executed by the other inventors in compliance with 37 CFR 1.63 and 1.64, the petition under 37 CFR 1.47(a) will be grantable.

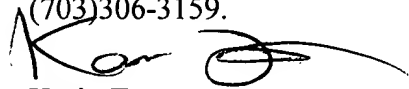
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
2201 South Clark Place
Arlington, VA 22202.

Telephone inquiries regarding this decision should be directed to the undersigned at
(703)306-3159.



Karin Tyson
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